

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

The United State of America for)	
the Use and Benefit of THE BEEBE)	2:05-cv-685-GEB-KJM
CORPORATION, a California)	
corporation,)	
)	
Plaintiff,)	
)	<u>ORDER DISMISSING ACTION</u>
v.)	
)	
ALL POWER, INC., a California)	
corporation; and ST. PAUL/)	
TRAVELERS, a corporation,)	
)	
Defendants.)	
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ALL POWER, INC.,)	
)	
Counterclaimant,)	
)	
v.)	
)	
THE BEEBE CORPORATION, a)	
California corporation,)	
)	
Counterdefendant.)	
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On September 15, 2005, the parties filed a "Stipulation for Dismissal With Prejudice and Order" ("Stipulation") which states the parties

stipulate and agree that the Complaint . . . and the Counterclaim . . . should be dismissed with

1 prejudice pursuant to the Mutual Release and
2 Settlement Agreement The terms of the
3 Mutual Release and Settlement Agreement are
4 explicitly incorporated by Plaintiff and
5 Defendants into this Stipulation for Dismissal
6 with Prejudice and Order. The parties hereto
7 further stipulate, acknowledge and agree that the
8 District Court of the United States for Eastern
9 District of California shall retain exclusive
10 jurisdiction to enforce the terms and provisions
11 of the Mutual Release and Settlement Agreement.

12 (Stipulation at 1-2.)

13 I have not read the above-referenced Settlement Agreement
14 and decline the parties' invitation to exercise jurisdiction over
15 something I have not seen. Further, "the mere fact that the parties
16 agree that the court should exercise continuing jurisdiction [over
17 their Settlement Agreement] is not binding on the court." Arata v. Nu
18 Skin Int'l Inc., 96 F.3d 1265, 1269 (9th Cir. 1996).

19 Inasmuch as the parties represent they have settled this
20 action and desire it dismissed, and nothing in their Stipulation
21 indicates the settlement is contingent upon the Court retaining
22 jurisdiction over any aspect of their Settlement Agreement, this
23 action is dismissed. See Oswalt v. Scripto, Inc., 616 F.2d 191, 194
24 (5th Cir. 1980) (revealing that when the parties' representations of
25 settlement are tantamount to a stipulated dismissal, a dismissal order
26 should issue). The Clerk of the Court is directed to close this
27 action.

28 IT IS SO ORDERED.

Dated: September 28, 2005

/s/ Garland E. Burrell, Jr.
GARLAND E. BURRELL, JR.
United States District Judge